



CITY of NOVI CITY COUNCIL

Agenda Item L
July 8, 2019

SUBJECT: Acceptance of a Conservation/Berm Easement from LeMarbe Holdings, LLC for conservation of woodland replacement and a landscape screening berm offered as a part of the JSP 16-33 Hadley's Towing project, located on the south side of Grand River Avenue and east of Wixom Road in Section 17 of the City.

SUBMITTING DEPARTMENT: Department of Community Development, Planning Division

CITY MANAGER APPROVAL: 

BACKGROUND INFORMATION:

The applicant has received Final Site Plan approval for an enclosed outdoor storage yard. The applicant is proposing to develop the property in two phases. The first phase includes construction of 152 parking spaces to store towed vehicles and the future phase would include 117 spaces (Total 268 spaces). The Planning Commission approved the Preliminary Site Plan, Wetlands Permit, Woodland Permit, and Stormwater Management Plan on December 13, 2017. The Final Site Plan was approved administratively on June 20, 2019.

A Zoning Map amendment was approved by the City Council on March 13, 2017 from I-1 (Light Industrial) to I-2 (General Industrial, which is limited for 5.6-acre of a 17.76-acre property). The applicant has offered to provide a landscape berm and landscape screening to reduce visibility from any future buildings on the vacant parcel to the east. The proposed easement is provided to permanently protect the landscape screening and the berm. Exhibit B of the easement graphically depicts the area being preserved. A copy of the site landscape plan depicting the berm and landscape is also attached for reference.

The easement has been reviewed by the City's professional staff and consultants. The easement is currently in a form acceptable to the City Attorney's office for acceptance by the City Council.

RECOMMENDED ACTION: Acceptance of a Conservation/Berm Easement from LeMarbe Holdings, LLC for conservation of woodland replacement and a landscape screening berm offered as a part of the JSP 16-33 Hadley's Towing project, located on the south side of Grand River Avenue and east of Wixom Road in Section 17 of the City.

JSP16-33 Hadley Towing

Location



LEGEND
Sections

City of Novi
Dept. of Community Development
City Hall / Civic Center
45175 W Ten Mile Rd
Novi, MI 48375
cityofnovi.org



Map Author: Sri Komaragiri
Date: 12/05/17
Project: JSP16-33 Hadley Towing
Version #: 1



1 inch = 362 feet



MAP INTERPRETATION NOTICE

Map information depicted is not intended to replace or substitute for any official or primary source. This map was intended to meet National Map Accuracy Standards and use the most recent accurate sources available to the people of the City of Novi. Boundary measurements and area calculations are approximate and should not be construed as survey measurements performed by a licensed Michigan Surveyor as defined in Michigan Public Act 132 of 1970 as amended. Please contact the City GIS Manager to confirm source and accuracy information related to this map.

LANDSCAPE PLAN

CITY ATTORNEY LETTER

ELIZABETH KUDLA SAARELA
esaarela@rsjalaw.com

27555 Executive Drive, Suite 250
Farmington Hills, Michigan 48331
P 248.489.4100 | F 248.489.1726
rsjalaw.com



ROSATI | SCHULTZ
JOPPICH | AMTSBUECHLER

June 28, 2019

Barb McBeth, City Planner
City of Novi
45175 Ten Mile Road
Novi, MI 48375-3024

**RE: Hadley's Towing JSP 16-0033
Conservation/Landscape Berm Easement**

Dear Ms. McBeth:

We have received and reviewed the **original** executed "Conservation/Landscape Berm Easement" for the Hadley's Towing PRO. The proposed Easement has been provided for the purpose of requiring maintenance of the berm area in its approved condition and preserving the woodland replacement trees located in that area. The Conservation Easement may be placed on an upcoming City Council Agenda for approval. Once executed by the City, it should be recorded with the Oakland County Register of Deeds in the usual manner.

Should you have any questions or concerns relating to the issues set forth above, please feel free to contact me in that regard.

Very truly yours,

ROSATI SCHULTZ JOPPICH
& AMTSBUECHLER PC

Elizabeth Kudla Saarela

EKS
Enclosure

Barb McBeth, City Planner
City of Novi
June 28, 2019
Page 2

C: Cortney Hanson, Clerk (w/Original Enclosures)
Charles Boulard, Community Development Director (w/Enclosures)
Sri Komaragiri, Planner (w/Enclosures)
Lindsay Bell, Planner (w/Enclosures)
Hannah Smith, Planning Assistant (w/Enclosures)
Angie Sosnowski, Community Development Bond Coordinator (w/Enclosures)
Ben Croy, City Engineer (w/Enclosures)
Darcy Rechten, Construction Engineer(w/Enclosures)
Rebecca Runkel, Staff Engineer (w/Enclosures)
Kate Richardson, Plan Review Engineer (w/Enclosures)
Sarah Marchioni, Community Development Building Project Coordinator(w/Enclosures)
Michael Freckelton, Taylor Reynolds & Ted Meadows, Spalding DeDecker
(w/Enclosures)
Sue Troutman, City Clerk's Office (w/Enclosures)
Jason Fleis, Greentech Engineering (w/Enclosures)
Thomas R. Schultz, Esquire (w/Enclosures)

ENGINEERING CONSULANT REVIEW LETTER



June 25, 2019

Barb McBeth, Planning Director
City of Novi
26300 Lee BeGole Drive
Novi, Michigan 48375

Re: Hadley's Towing – Planning Document Review
Novi # JSP16-0033
SDA Job No. NV17-225
EXHIBITS APPROVED

Dear Ms. Bridges

We have reviewed the following document package received by our office on June 24, 2019 against the submitted plan set. We offer the following comments:

Submitted Documents:

1. **Landscape Berm Conservation Easement** – (executed 05/15/19: exhibits dated 05/29/18 and 05/07/19) Legal Description Approved.

Documents that require revisions should be resubmitted to the City for further review. If you have any questions regarding this matter, please contact this office at your convenience.

Sincerely,

SPALDING DEDECKER

Taylor E. Reynolds, P.E.
Senior Project Engineer

Cc (via Email): Lindsay Bell, City of Novi Planning Department
Sri Komaragiri
Sarah Marchioni
Ted Meadows
Kate Richardson
Beth Saarela
Hannah Smith

CONSERVATION/LANDSCAPE BERM EASEMENT

CONSERVATION / LANDSCAPE BERM EASEMENT

THIS CONSERVATION EASEMENT made this 13th day of February, 2019, by LeMarbe Holdings, LLC a Michigan Limited Liability Company, whose address is c/o Hadley's Towing 24826 Hathaway Street, Farmington Hills, Michigan 48336 (hereinafter the "Grantor"), and the City of Novi, and its successors or assigns, whose address is 45175 W. Ten Mile Road, Novi, MI 48375, (hereinafter the "Grantee").

RECITATIONS:

A. Grantor owns a certain parcel of land situated in section 17 of the City of Novi, Oakland County, Michigan, described in Exhibit A, attached hereto and made a part hereof (the "Property"). Grantor has received final site plan approval for construction of a P.R.O. Hadley's Towing development on the Property, subject to provision of an appropriate easement to permanently protect the woodlands, open space, and landscape berm thereon from destruction or disturbance. Grantor desires to grant such an easement in order to protect the area.

B. The Conservation / Landscape Berm Easement Areas (the "Easement Areas") situated on the Property are more particularly described on Exhibit B, attached hereto and made a part hereof, the second page of which contains a drawing depicting the protected area.

NOW, THEREFORE, in consideration of the sum of One Dollar (\$ 1.00), in hand paid, the receipt and adequacy of which are hereby acknowledged, Grantor hereby reserves, conveys and grants the following Conservation / Landscape Berm Easement, which shall be binding upon the Grantor, and the City, and their respective heirs, successors, assigns and/or transferees and shall be for the benefit of the City, all Grantors and purchasers of the property and their respective heirs, successors, assigns and/or transferees. This Conservation / Landscape Berm Easement is dedicated pursuant to subpart 11 of part 21 of the Natural Resources and Environmental Protection Act being MCL 324.2140, et. Seq., upon the terms and conditions set forth herein as follows:

1. The purpose of this Conservation / Landscape Berm Easement is to protect the woodlands and open space, as shown on the attached and incorporated Exhibit B. The subject areas shall be perpetually preserved and maintained, in their natural and undeveloped condition, unless authorized by permit from the City, and, if applicable, the Michigan Department of Environmental Quality and the appropriate federal agency.

2. Except for and subject to the activities which have been expressly authorized by permit, there shall be no disturbance of the woodlands, berm and/or vegetation within the Easement Area, including altering the topography of; placing fill material in; dredging, removing or excavating soil, minerals, or trees, and from constructing or placing any structures on; draining surface water from; or plowing, tilling, cultivating, or otherwise altering or developing, and/or constructing, operating, maintaining any use or development in the Easement Area.

3. No grass or other vegetation shall be planted in the Easement Areas with the exception of plantings approved, in advance, by the City in accordance with all applicable laws and ordinances.

4. All areas identified on Exhibit B as berm areas shall be forever reserved and preserved, in the condition specifically approved by the City in accordance with applicable laws, ordinances, and final approved site plan.

5. This Conservation / Landscape Berm Easement does not grant or convey to Grantee, or any member of the general public, any right of ownership, possession or use of the Easement Area, except that, upon reasonable written notice to Grantor, Grantee and its authorized employees and agents (collectively, "Grantee's Representatives") may enter upon and inspect the Easement Area to determine whether the Easement Area is being maintained in compliance with the terms of the Conservation Easement.

6. In the event that the Grantor shall at any time fail to carry out the responsibilities specified within this Document, and/or in the event of a failure to preserve and/or maintain the protected woodlands berm area in reasonable order and condition, the City may serve written notice upon the Grantor setting forth the deficiencies in maintenance and/or preservation. Notice shall also set forth a demand that the deficiencies be cured within a stated reasonable time period, and the date, time and place of the hearing before the City Council, or such other Council, body or official delegated by the City Council, for the purpose of allowing the Grantor to be heard as to why the City should not proceed with the maintenance and/or preservation which has not been undertaken. At the hearing, the time for curing the deficiencies and the hearing itself may be extended and/or continued to a date certain. If, following the hearing, the City Council, or other body or official, designated to conduct the hearing, shall determine that maintenance and/or preservation have not been undertaken within the time specified in the notice, the City shall thereupon have the power and authority, but not obligation, to enter upon the property, or cause its agents or contractors to enter upon the property and perform such maintenance and/or preservation as reasonably found by the City to be appropriate. The cost and expense of making and financing such maintenance and/or preservation, including the cost of notices by the City and reasonable legal fees incurred by the City, plus an administrative fee in the amount of 25% of the total of all costs and expenses incurred, shall be paid by the Grantor, and such amount shall constitute a lien on an equal pro rata basis as to all of the lots on the property. The City may require the payment of such monies prior to the commencement of work. If such costs and expenses have not been paid within 30 days of a billing to the Grantor, all unpaid amounts may be placed on the delinquent tax roll of the City, pro rata, as to each lot, and shall accrue interest and penalties, and shall be collected as, and shall be deemed delinquent real property taxes, according to the laws made and provided for the collection of delinquent real

property taxes. In the discretion of the City, such costs and expenses may be collected by suit initiated against the Grantor, and, in such event, the Grantor shall pay all court costs and reasonable attorney fees incurred by the City in connection with such suit.

7. Within 90 days after the Conservation / Landscape Berm Easement shall have been recorded, Grantor at its sole expense, shall place such signs, defining the boundaries of the Easement Area and, describing its protected purpose, as indicated herein.

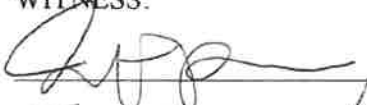
8. This Conservation / Landscape Berm Easement has been made and given for a consideration of a value less than One Hundred (\$ 100.00) Dollars, and, accordingly, is (i) exempt from the State Transfer Tax, pursuant to MSA 7.456(26)(2) and (ii) exempt from the County Transfer Tax, pursuant to MSA 7.456(5)(a).

9. Grantor shall state, acknowledge and/or disclose the existence of this Conservation Easement on legal instruments used to convey an interest in the property.

IN WITNESS WHEREOF, Grantor and Grantee have executed the Conservation Easement as of the day and year first above set forth.

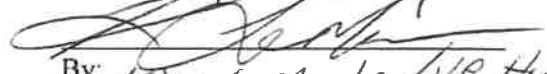
*If applicable to the particular development. If not, remove.

WITNESS:


Jesse Parkinson

Greentech Engineering, Inc.

LEMARBE HOLDINGS, LLC
(Grantor) a Michigan limited liability company



By: Kipp Lemarbe / VP Hedley's Training
Its:

STATE OF MICHIGAN)
) ss
COUNTY OF OAKLAND)

WILLIAM A. DREESE
NOTARY PUBLIC, STATE OF MI
COUNTY OF OAKLAND
MY COMMISSION EXPIRES Jul 19, 2022
ACTING IN COUNTY OF OAKLAND

The foregoing instrument was acknowledged before me this 15th day of May, 2009, by ~~William A. Drees~~ as the ~~notary~~ of ~~Oakland County~~.

Kipp Lemarbe, Vice President & Member of Lemarbe Holdings, LLC, on its behalf.


Notary Public
Oakland County, Michigan
My Commission Expires: July 19, 2022

WITNESS:

(Grantee)
CITY OF NOVI
A Municipal Corporation

By:
Its:

STATE OF MICHIGAN)
) ss.
COUNTY OF OAKLAND)

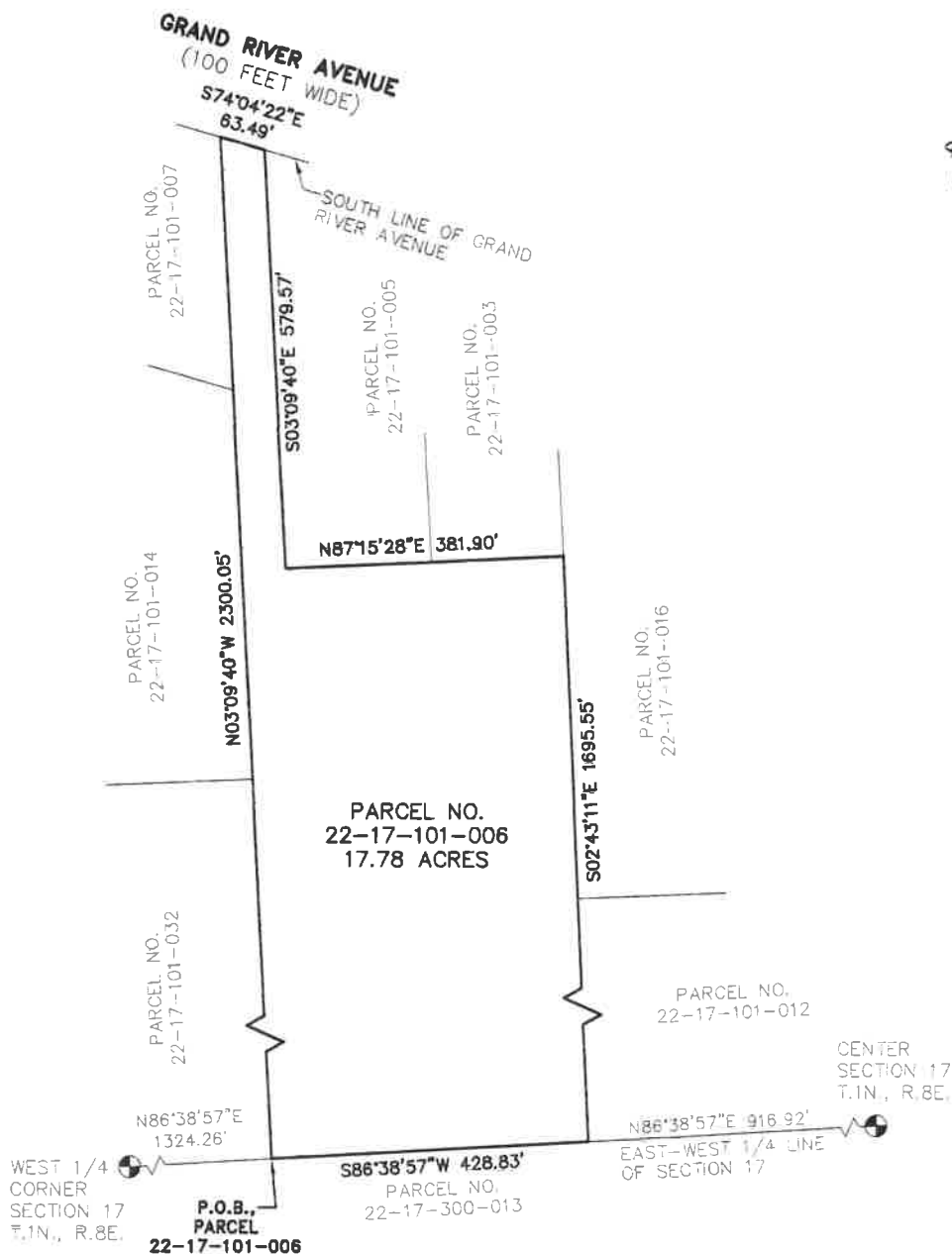
The foregoing instrument was acknowledged before me on this _____ day of _____ 2019, by, _____, on behalf of the City of Novi, a Municipal Corporation.

Notary Public
Acting in Oakland County, Michigan
My Commission Expires: _____

Drafted By:
Elizabeth K. Saarela
Rosati Schultz & Joppich & Amtsbuechler PC
27555 Executive Drive, Suite 250
Farmington Hills, MI 48331

When Recorded, Return To:
Cortney Hanson, Clerk
City of Novi
45175 Ten Mile Road
Novi, MI 48375-3024

EXHIBIT A
GRANTOR PROPERTY



LEGAL DESCRIPTION - PARCEL NO. 22-17-101-006

PART OF THE NORTHWEST 1/4 OF SECTION 17, T.1N., R.8E., CITY OF NOVI, OAKLAND COUNTY, MICHIGAN DESCRIBED AS BEGINNING AT A POINT ON THE EAST-WEST 1/4 LINE OF SAID SECTION 17, SAID POINT BEING N86°38'57"E, 1324.26 FEET FROM THE WEST 1/4 CORNER OF SAID SECTION 17; THENCE N03°09'40"W, 2300.05 FEET TO THE SOUTH LINE OF GRAND RIVER AVENUE; THENCE S74°04'22"E ALONG SAID SOUTH LINE, 63.49 FEET; THENCE S03°09'40"E, 579.57 FEET; THENCE N87°15'28"E, 381.90 FEET; THENCE S02°43'11"E, 1695.55 FEET TO A POINT ON THE EAST-WEST 1/4 LINE OF SAID SECTION 17; THENCE S86°38'57"W ALONG SAID EAST-WEST 1/4 LINE, 428.83 FEET TO THE POINT OF BEGINNING. CONTAINING 17.78 ACRES AND SUBJECT TO EASEMENTS AND RIGHT-OF-WAYS OF RECORD.



CIVIL ENGINEERS & LAND SURVEYORS

51147 W. Pontiac Trail
Wixom, MI 48393
Phone: (248) 668-0700
Fax: (248) 668-0701

CLIENT:

HADLEY'S TOWING

**LANDSCAPE BERM
EASEMENT**

PARCEL NO. 22-17-101-006
SECTION: 17 TOWNSHIP: 1 N RANGE: 8 E
CITY OF NOVI
OAKLAND COUNTY
MICHIGAN

REV. 5-29-2018

DATE: 5-14-2018

DRAWN BY: RMS

CHECKED BY: JPP

0 100 200

FBK: --

CHF: --

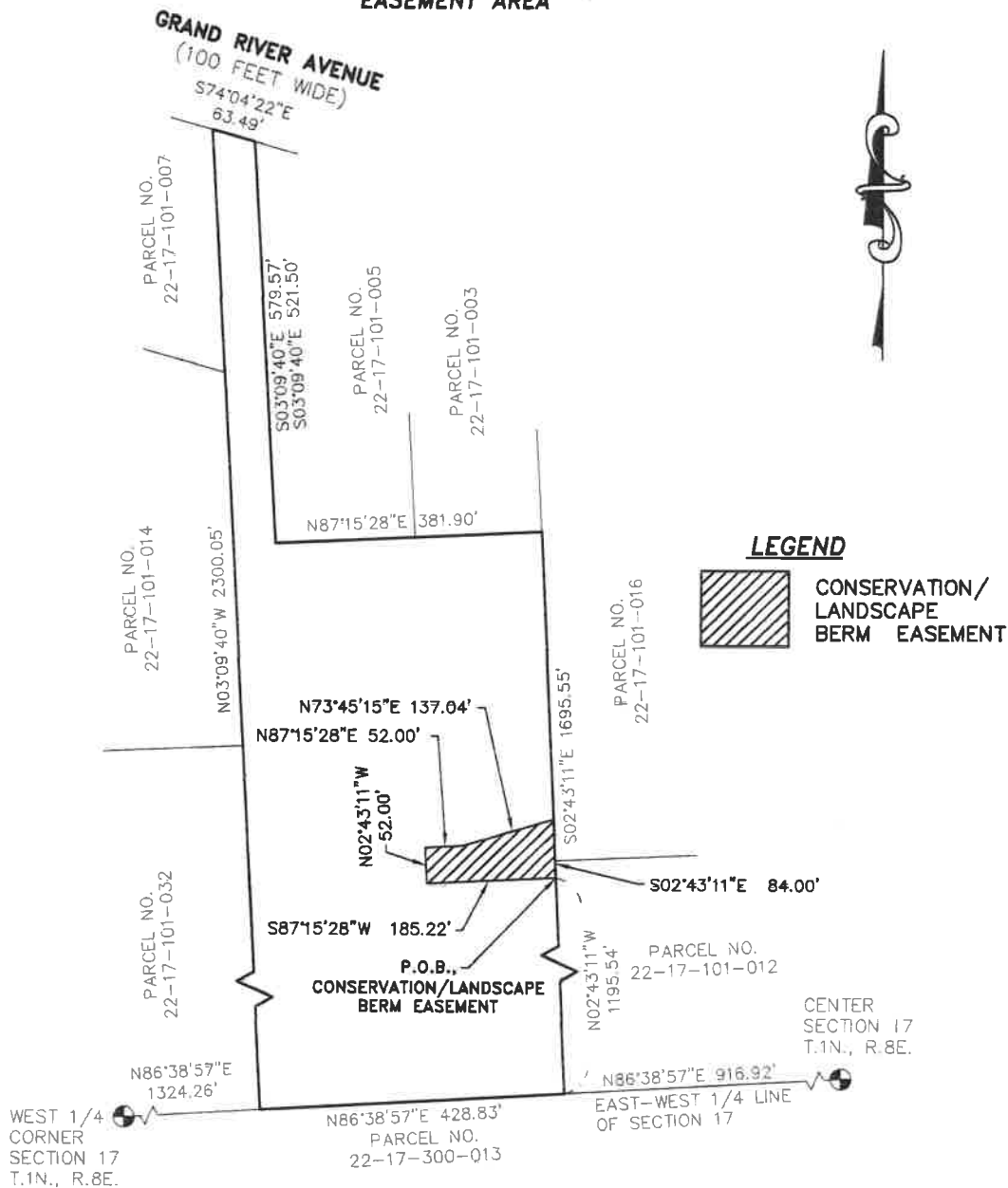
SCALE: HOR 1"=200 FT.
VER 1"= -- FT.

1 OF 2

16-206

EXHIBIT B

EASEMENT AREA



CONSERVATION/LANDSCAPE BERM EASEMENT DESCRIPTION:

A VARIABLE WIDTH STORM SEWER EASEMENT BEING PART OF THE NORTHWEST 1/4 OF SECTION 17, T.1N., R.8E., CITY OF NOVI, OAKLAND COUNTY, MICHIGAN, DESCRIBED AS COMMENCING AT THE WEST 1/4 CORNER OF SAID SECTION 17; THENCE N86°38'57"E 1324.26 FEET; THENCE CONTINUING N86°38'57"E 428.83 FEET; THENCE N02°43'11"W 1195.54 FEET TO THE POINT OF BEGINNING; THENCE S87°15'28"W 185.22 FEET; THENCE N02°43'11"W 52.00 FEET; THENCE N87°15'28"E 52.00 FEET; THENCE N73°45'15"E 137.04 FEET; THENCE S02°43'11"E 84.00 FEET TO THE POINT OF BEGINNING.



51147 W. Pontiac Trail
Wixom, MI 48393
Phone: (248) 668-0700
Fax: (248) 668-0701

REV. 5-29-2018	
CLIENT:	HADLEY'S TOWING
DATE:	5-14-2018
DRAWN BY:	RMS
CHECKED BY:	JPP
CONSERVATION/LANDSCAPE BERM EASEMENT	
PARCEL NO. 22-17-101-006 SECTION: 17 TOWNSHIP: 1 N. RANGE: 8 E. CITY OF NOVI OAKLAND COUNTY MICHIGAN	
FBK: --	2 OF 2
CHF: --	16-206
SCALE HOR 1"=200 FT VER 1"= -- FT.	